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SUBJECT: COALITION AGREES ON NEW MEMBERSHIP OF  
PARLIAMENTARY COMMITTEES

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Summary

1. On June 17 Parliament finally agreed on new membership to 27 parliamentary committees. The decision had been held up by a conflict between the main coalition parties, the Orange Democratic Movement (ODM) and the Party of National Unity (PNU), over each party's share of membership and the leadership of committees. Failure to agree threatened Parliament's ability to do business, including debating the budget. After efforts to resolve the issue within Parliament failed, President Mwai Kibaki and Prime Minister Raila Odinga came to an agreement: ODM will control 14 committees, leaving PNU to control 13. We expect committees to meet on June 22 to elect chairs, allowing the budget debate to proceed. However, the two principals have not yet reached consensus on who will be the Leader of Government Business in Parliament or Chair of the House Business Committee (Reftel). End Summary.

Reconstituting Parliamentary Committees

2. Parliament adopted new Standing Orders (Rules of Procedures) in December 2008. The new Standing Orders create a number of new committees and require that all parliamentary committees be constituted, a process which requires that membership be agreed by the House Business Committee (HBC). After new membership is agreed, the members of each committee then elect the Chair. Committees which track the work of line-item ministries reflect the balance of power in parliament as a whole: they are controlled by the governing parties and the Chair is a member of the governing parties. However, the four watchdog committees are controlled by opposition parties and, in the current political situation where there is no Official Opposition (defined as a grouping of 30 MPs not belonging to parties in government, but which can include members of governing parties if their party leadership assents), the Chair is required to be from a party which is not in government.

3. The HBC is normally chaired by a Member of Parliament (MP) nominated by the government. However, because the government failed to reach consensus on a single nominee, Speaker Kenneth Marende ruled that the Whips of the governing parties, the Orange Democratic Movement (ODM) and the Party of National Unity (PNU), would alternately chair meetings of the HBC until the government agreed on one nominee (Reftel). The HBC was unable to finalize the composition of parliamentary committees because ODM, as the largest parliamentary party, claimed the right to dominate the government-controlled committees. If ODM's argument were accepted, ODM would have been able to elect the chairs of all

these committees. (Note: ODM has 105 MPs of 222, while only 50 MPs were elected standing as PNU candidates. However, many PNU-affiliated parties ran independently. When these parties' MPs are included, PNU controls 99 seats. End Note.) ODM's demand was unacceptable to PNU, which argued that appointing only ODM chairs would go against the spirit of the coalition government.

¶4. ODM has accused PNU of frequently disregarding the spirit of the coalition agreement. ODM tried to turn the tables on PNU using a technical argument to seek control of all government-controlled committees. Odinga attempted to link his concession on the issue of committee composition with the ODM being granted the positions of the Chair of the HBC and the Leader of Government Business. However, public pressure to reconstitute committees to allow the budget debate to proceed forced ODM to cede ground. In the end, ODM accepted a deal whereby it will have the majority on 14 of Parliament's 27 committees; PNU will control 13 committees. Consensus between the principals on who will Chair the HBC and who will be the Leader of Government Business in Parliament remains elusive. In the absence of a resolution on the HBC Chair, the Chair will continue to rotate between the ODM and PNU Whips.

#### Exchanging Control of Key Committees

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¶5. The local press portrayed the agreement as an "ODM Coup." However, on closer examination the composition of, and balance of power within, most committees remains largely unchanged. Also, the composition of watchdog committees,

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such as the Public Accounts Committee (PAC) and the Public Investments Committee (PIC), as well as committees covering Finance, Internal Security, Defense and Foreign Relations, and Legal Affairs, shows that the balance of power has not shifted dramatically. The status quo held in both the PAC and the PIC. In the most important subject matter committees, the status quo held in two (Legal Affairs and Finance), while ODM and PNU exchanged majorities in Internal Security and Defense and Foreign Relations. ODM now controls the committee tracking Internal Security, while PNU assumes control of Defence.

#### Comment

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¶6. The press may have portrayed the agreement on the composition of parliamentary committees as an ODM victory, but the reality is that little has changed. In fact, ODM was unsuccessful in its attempt to link committee compositions to a resolution of the issue of who will be the HBC Chair and the Leader of Government Business in Parliament. The new committees will meet on June 22 to elect chairs. We do not expect a large turnover in the Chairs of the committees, although there is speculation that ODM may attempt to oust Boni Khalwale as Chair of the PAC. Khalwale has frequently used his position to ask uncomfortable questions of both sides of the grand coalitions government. He is independent, but his party is a member of the loose PNU coalition and he enjoys PNU support. We will continue to follow the issue.  
End Comment.  
RANNEBERGER